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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,603	09/26/2003	Isao Osako	243307US3	9903

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EXAMINER

STULII, VERA

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/670,603

Applicant(s)

OSAKO ET AL.

Examiner

Vera Stulii

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's election with traverse of method for manufacturing frozen or refrigerated noodles in the reply filed on 10/17/2006 is acknowledged. The traversal is on the ground(s) that a search and examination of the entire application would not place a serious burden on the Examiner. This is not found persuasive because two inventions are classified in different subclasses. The method for manufacturing frozen or refrigerated noodles is classified in class 426 subclass 393. The apparatus for manufacturing frozen or refrigerated noodles is classified in class 426 subclass 99.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Komatsu et al (US 3,930,041) in view of Ando (US 3,892,874).

In regard to claim 1, Komatsu et al disclose "the hermetic sealing process for deaerating and heat-sealing a packaged article comprising a container having a heat-sealable resin coating on the inner surface" (Abstract). Komatsu et al disclose cooked or semi-cooked (half-boiled) foods such as noodles filled in the container (Col.8 lines 17, 20, 28, 38-39). Komatsu et al also disclose that "according to this invention, after a cooked or semi-cooked food is filled in a container, deaeration is carried out for

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excluding air and other gas harmful for heat-sterilization, preservation and re-heating" (Col.8 lines 48-50). Komatsu et al also disclose that such deaeration can be accomplished by "a method in which air and other gas in the packaged article are replaced by steam, for instance, a hot filling method, an exhausting evacuation method and a steam flashing method" (Col.8 lines 57-60). Komatsu et al also discloses a natural cooling of packaged article between the heat-sealing step and overpressure cooling Step" (Col. 13, lines 66-68). Komatsu et al also discloses that "it is sufficient that the temperature adopted at the overpressure cooling step is lower than the temperature at which the vapor present on the sealed interface of the heat-sealed sealant, namely 100°C in the case of steam" (Col.14, lines 38-42). Komatsu et al also discloses that "it is most desired that a cooling press adjusted to 5°C to 25°C is employed" (Col.14 lines 46-47). Komatsu et al also discloses that "when a packaged article according to this invention is subjected to the heat-sterilization treatment ... the content food can be preserved for a very long time sufficiently" (Col. 16 lines 3-7).

In regard to claim 2, Komatsu et al disclose "the hermetic sealing process" (Abstract).

In regard to claim 3, Komatsu et al disclose that "this packaging container may take a form of a flexible bag, namely a flexible pouch. More specifically, it is possible to employ as a packaging container a bag-like material prepared by overlapping laminates composed of an inner layer of a heat-sealable resin film and an outer layer of a heat-resistant resin such as polyethylene terephthalate or a metallic foil such as an aluminum foil or laminates composed of an inner layer of a heat-sealable resin film, an

intermediate layer of a metallic foil and an outer layer composed of a heat-resistant resin, and heat-sealing side portions of such laminated article" (Col. 4 lines 29-40).

Komatsu et al do not disclose specific moisture content of half-boiled noodles, preserving the cooled noodles in freezing or refrigerating storage, the temperature of half-boiled noodles during the hermetical sealing, the cooling speed, and the particular time of placing sealed container in the freezing or refrigerating storage.

Ando (US 3,892,874) discloses "seasoned instant-cooking noodles, packed in a container, are produced by boiling raw noodles, ... placing the dehydrated noodles at a high temperature into cup-shaped containers of insulating material, sealing the containers, and cooling same" (Abstract). Ando also discloses that "initially raw or unprocessed noodles are boiled so as to gelatinize the noodles" (Col.1 lines 60-63). Ando also discloses that "according to the present invention, the precooked noodles while still at a high temperature are packaged into a container of insulating material, without cooling, whereupon the container is immediately sealed with a cover. Then, the noodles in the sealed container are passed into a cooling chamber to complete the production" (Col.2 lines 45-52). Ando also discloses that "the sealed cup containing the hot noodles is cooled with development of a partial vacuum in the container by the difference in temperature between the inside and the outside of the cup, with a resulting sterilizing effect" (Col. 2 lines 52-56). Specifically in regard to claim 4, Ando discloses that the noodles are packed in the container at elevated temperature (approximately 145°C) (Claims 1 and 2). Ando discloses that the storage period is about one year (Col.2 lines 64-65).

Since Komatsu et al teaches heat sterilization treatment after overpressure cooling sealing step, and Ando teaches cooling the sealed cup with a resulting sterilizing effect, then it would have been obvious to one skilled in the art to modify teachings of Komatsu et al and to substitute heat sterilization step with cooling step in order to achieve same sterilization effect as taught by Ando. It would have been obvious to vary moisture content of half-boiled noodles based on the desired level of elasticity, degree of gelatinization, luster and uniformity. It would also have been obvious to vary cooling speed in order to avoid distortion in the packaging article, occurrence of waving on the sealed face and partial shrinkage of the packaged article. It would have been obvious to store noodles in a refrigerating or freezing storage in order to further preserve the noodles.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Raffensperger (US 4,734,291) discloses process for preparing shelf stable al dente cooked pasta. Halik (US 3,655,401) discloses process for producing shelf stable dehydrated rehydratable pasta products.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vera Stulii whose telephone number is (571) 272-3221. The examiner can normally be reached on 7:00 am-3:30 pm, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VS

V. Stulz


KEITH HENDRICKS
PRIMARY EXAMINER